

UNITED STATES BANKRUPTCY COURT
DISTRICT OF RHODE ISLAND

In re: James W. Tremontozzi
Debtor

BK No. 23-10316
Chapter 7

MOTION TO AVOID JUDICIAL LIENS

Debtor, James W. Tremontozzi, respectfully moves to avoid the judicial liens of Discover Bank, Revens Revens & St. Pierre and Citibank pursuant to 11 U.S.C. §522(f)(1)(A), Fed. R. Bankr. P. 4003(d), and R.I. LBR 4003-2. On May 3, 2023, the Debtor filed a voluntary petition for relief under Chapter 7 of the Bankruptcy Code (the “Petition Date”). The Court has jurisdiction over this matter pursuant to 28 USC §1334, and this is a core proceeding under 28 USC § 157(b)(2)(K).

AVOIDANCE OF JUDICIAL LIEN OF DISCOVER BANK

In support of this motion, and in accordance with R.I. LBR 4003-2(a), the Debtor states:

1. The holder of the judicial lien sought to be avoided is Discover Bank.
2. The judicial lien of Discover was recorded at Book 11251 Page 10 of the City of Providence, Rhode Island Land Evidence Records on or about November 2, 2015 in the amount of \$14,091.41.
3. The judicial lien is against the Debtor’s real property located at 48 Trask Street, Providence, RI, Rhode Island (the “Property”). According to the filed bankruptcy schedules, the Debtor is the sole owner. The value of the Debtor’s interest in the Property at the time of filing was \$413,300.
4. The Property is subject to the following liens and encumbrances of record as of the Petition Date:

a. A mortgage to MCLP Asset Company recorded on or about 2008 in the Land Evidence Records of Providence, Rhode Island with an approximate balance of **\$167,512.00**.

b. A judicial lien held by Discover Bank recorded on or about November 2, 2015 in the Land Evidence Records of Providence, Rhode Island in the amount of **\$14,091.41**.

c. A judicial lien held by Revens Revens & St. Pierre recorded on or about June 16, 2015 in the Land Evidence Records of Providence, Rhode Island in the amount of **\$13,196.41**.

d. A judicial lien held by Citibank, N.A. recorded June 15, 2012 in the Land Records of Providence, Rhode Island in the amount of **\$22,633.58**.

The total amount of all liens against the Property is **\$217,433.43**.

6. The Debtor elected exemptions under 11 U.S.C. §522(b)(3).

7. The Debtor claimed an exemption in the Property on Schedule C in the amount of \$500,000.00 pursuant to R.I.G.L. 9-26-4.1. The maximum exemption available to the Debtor pursuant to this statutory provision is \$500,000.00.

8. 11 U.S.C. §522(f)(1)(A) permits a debtor to avoid the fixing of a judicial lien on an interest of the debtor in property to the extent that such judicial lien impairs an exemption to which the debtor would have been entitled under 11 U.S.C. §522(b), so long as such lien is a judicial lien and is not a lien to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child. The lien of Discover Bank is a judicial lien as that term is defined by 11 U.S.C. §101(36). Applying the formula set forth in 11 U.S.C. §522(f)(2)(A):

a.	Amount of lien to be avoided:	
	Discover Bank	\$14,091.44
b.	Total of all other liens against the Property:	
	MCLP Asset Company Inc.	\$167,512.00
	Revens, Revens & St. Pierre	\$13,196.41
	Citibank, N.A.	<u>\$22,633.58</u>
		\$217,433.43
c.	Total amount of exemption Debtor could claim:	
	11 U.S.C. §522(d)(1)	<u>\$ 500,000.00</u>
	Resulting Sum	\$717,433.43 Less
d.	Value of Debtor's Interest in the Property in the absence of any mortgages or liens:	\$ 413,300.00
	Exemption Impairment	\$ 304,133.43
e.	Amount of lien of Discover Bank to be avoided	\$14,091.41

9. The sum of the liens and the exemption, minus the value of the Debtor's interest in the Property is greater than the judicial lien of Discover Bank in the amount of \$14,091.41 and the lien of Discover Bank may be avoided in its entirety.

WHEREFORE, the Debtor respectfully request that the judicial lien of Discover Bank in the total amount of \$14,091.44 be avoided in its entirety and declared null and void pursuant to 11 U.S.C. § 522(f)(1)(A).

AVOIDANCE OF JUDICIAL LIEN OF REVENS, REVENS & ST. PIERRE

In support of this motion, and in accordance with R.I. LBR 4003-2(a), the Debtor states:

1. The holder of the judicial lien sought to be avoided is Revens, Revens & St. Pierre.
2. The judicial lien of Revens, Revens & St. Pierre was recorded at Book 11143 Page 55 of the City of Providence, Rhode Island Land Evidence Records on or about June 16, 2015 in the amount of \$13,196.41.
3. The judicial lien is against the Debtor's real property located at 48 Trask Street, Providence, Rhode Island (the "Property"). According to the filed bankruptcy schedules, the Debtor own the property solely. The value of the Debtor's interest in the Property at the time of filing was \$413,300.
4. The Property is subject to the following liens and encumbrances of record as of the Petition Date:
 - a. A mortgage to MCLP Asset Company recorded on or about 2008 in the Land Evidence Records of Providence, Rhode Island with an approximate balance of **\$167,512.00**.
 - b. A judicial lien held by Revens, Revens & St. Pierre recorded on or about June 16, 2015 in the Land Evidence Records of Providence, Rhode Island in the amount of **\$13,196.41**.
 - c. A judicial lien held by Citibank, N.A. recorded June 15, 2012 in the Land Records of Providence, Rhode Island in the amount of **\$22,633.58**.

The total amount of all liens against the Property is **\$203,341.99**.

6. The Debtor elected exemptions under 11 U.S.C. §522(b)(3).

7. The Debtor claimed an exemption in the Property on Schedule C in the amount of \$500,000.00 pursuant to R.I.G.L. 9-26-4.1. The maximum exemption available to the Debtor pursuant to this statutory provision is \$500,000.00.

8. 11 U.S.C. §522(f)(1)(A) permits a debtor to avoid the fixing of a judicial lien on an interest of the debtor in property to the extent that such judicial lien impairs an exemption to which the debtor would have been entitled under 11 U.S.C. §522(b), so long as such lien is a judicial lien and is not a lien to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child. Revens, Revens & St. Pierre is a judicial lien as that term is defined by 11 U.S.C. §101(36). Applying the formula set forth in 11 U.S.C. §522(f)(2)(A):

a. Amount of lien to be avoided:

Revens, Revens & St. Pierre	\$13,196.41
-----------------------------	-------------

b. Total of all other liens against the Property:

MCLP Asset Company Inc.	\$167,512.00
-------------------------	--------------

Citibank	<u>\$22,633.58</u>
	\$203,341.99

c. Total amount of exemption Debtor could claim:

11 U.S.C. §522(d)(1)	<u>\$ 500,000.00</u>
Resulting Sum	\$703,341.99 Less

d. Value of Debtor's Interest in the Property in the absence of any mortgages or liens:

	\$ 413,300.00
--	---------------

Exemption Impairment	\$ 290,041.99
----------------------	---------------

e. Amount of lien of Revens, Revens & St. Pierre to be avoided

	\$13,196.41
--	-------------

9. The sum of the liens and the exemption, minus the value of the Debtor's interest in the Property is greater than the judicial lien of Revens, Revens & St. Pierre in the amount of **\$13,196.41** and the lien of Revens, Revens & St. Pierre may be avoided in its entirety.

WHEREFORE, the Debtor respectfully request that the judicial lien of Revens, Revens & St. Pierre in the total amount of **\$13,196.41** be avoided in its entirety and declared null and void pursuant to 11 U.S.C. § 522(f)(1)(A).

AVOIDANCE OF JUDICIAL LIEN OF CITIBANK

In support of this motion, and in accordance with R.I. LBR 4003-2(a), the Debtor states:

1. The holder of the judicial lien sought to be avoided is Citibank.

2. The judicial lien of Citibank was recorded at Book 10293 Page 277 of the City of Providence, Rhode Island Land Evidence Records on or about June 15, 2012 in the amount of **\$22,633.58**.

3. The judicial lien is against the Debtor's real property located at 48 Trask Street, Providence, Rhode Island (the "Property"). According to the filed bankruptcy schedules, the Debtor owns the property solely. The value of the Debtor's interest in the Property at the time of filing was **\$413,300**.

4. The Property is subject to the following liens and encumbrances of record as of the Petition Date:

a. A mortgage to MCLP Asset Company recorded on or about 2008 in the Land Evidence Records of Providence, Rhode Island with an approximate balance of **\$167,512.00**.

c. A judicial lien held by Citibank, N.A. recorded June 15, 2012 in the Land Records of Providence, Rhode Island in the amount of **\$22,633.58**.

The total amount of all liens against the Property is **\$190,145.58**.

6. The Debtor elected exemptions under 11 U.S.C. §522(b)(3).

7. The Debtor claimed an exemption in the Property on Schedule C in the amount of \$500,000.00 pursuant to R.I.G.L. 9-26-4.1. The maximum exemption available to the Debtor pursuant to this statutory provision is \$500,000.00.

8. 11 U.S.C. §522(f)(1)(A) permits a debtor to avoid the fixing of a judicial lien on an interest of the debtor in property to the extent that such judicial lien impairs an exemption to which the debtor would have been entitled under 11 U.S.C. §522(b), so long as such lien is a judicial lien and is not a lien to a spouse, former spouse, or child of the debtor for alimony to, maintenance for, or support of such spouse or child. The lien of Citibank, N.A. is a judicial lien as that term is defined by 11 U.S.C. §101(36). Applying the formula set forth in 11 U.S.C. §522(f)(2)(A):

a. Amount of lien to be avoided:

Citibank	\$22,633.58
----------	-------------

b. Total of all other liens against the Property:

MCLP Asset Company Inc.	<u>\$167,512.00</u>
	\$190,145.58

c. Total amount of exemption Debtor could claim:

11 U.S.C. §522(d)(1)	<u>\$ 500,000.00</u>
Resulting Sum	\$690,145.58 Less

d. Value of Debtor's Interest in the Property in the absence of any mortgages or liens:

\$ 413,300.00

Exemption Impairment

\$ 276,845.58

e. Amount of lien of Citibank to be avoided

\$22,633.58

9. The sum of the liens and the exemption, minus the value of the Debtor's interest in the Property is greater than the judicial lien of Citibank in the amount of \$22,633.58 and Citibank may be avoided in its entirety.

WHEREFORE, the Debtor respectfully requests that the judicial lien of Citibank in the total amount of \$22,633.58 be avoided in its entirety and declared null and void pursuant to 11 U.S.C. § 522(f)(1)(A).

Respectfully submitted,
James W. Trementozzi
By his attorney,

/s/ John S. Simonian
John S. Simonian, Esq., #4694
P.O. Box 2
Pawtucket, RI 02862
Ph.: (401) 941-4800
Fx : (401) 785-8313
john@law-ri.com

Within fourteen (14) days after service, if served electronically, as evidenced by the certification, and an additional three (3) days pursuant to Fed. R. Bankr. P. 9006(f) if served by mail, or other excepted means specified, any party against whom such paper has been served, or any other party who objects to the relief sought, shall serve and file an objection or other appropriate response to said paper with the Bankruptcy Court Clerk's Office, 380 Westminster Street, 6th Floor, Providence, RI 02903, (401) 626-3100. If no objection or other response is timely filed, the paper will be deemed unopposed and will be granted unless: (1) the requested relief is forbidden by law; (2) the requested relief is against public policy; or (3) in the opinion of the Court, the interest of justice requires otherwise.

Certificate of Service

I hereby certify that on **10th day of May 2023** a copy of the within Motion was served to Stacy Ferrara, Esq., Chapter 7 Trustee via electronic notice of filing and to the following:

Counsel for Citibank:
Figliola & Romano
282 County Road, Suite 3
Barrington, RI 02806
Via Regular U.S. Mail

Counsel for Revens, Revens & St. Pierre
Diana E. Pearson, Esq.
PO Box 178, 1050 Main St. #2
East Greenwich, RI 02818

Citibank
Attn: Michael L. Corbat, CEO
388 Greenwich Street
New York, NY 10013
Via Regular U.S. Mail and Certified Mail

Citibank Registered Agent
CT Corporation
111 8th Avenue
New York, NY 10011
Via Regular U.S. Mail and Certified Mail

Revens Revens & St. Pierre
946 Centerville Road
Warwick, RI 02886
Via regular U.S. Mail

Counsel for Discover Bank
Hodosh Lyon & Hammer Ltd.
41 Comstock Pkwy
Cranston, RI 02921
Via Regular U.S. Mail

Discover Bank
Attn: Roger C. Hochschild, CEO/President
2500 Lake Cook Rd.
Bannockburn, IL 60015
Via Regular U.S. Mail and Certified Mail

Registered Agent for Discover Bank:
CT Corporation
208 South LaSalle Street, Ste. 814
Chicago, IL 60604
Via Regular U.S. Mail and Certified Mail

/s/ John S. Simonian